

LEGAL WATCH

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Reform of the provisions relating to the criminalisation of sexual assault (Bill No. 1027)

Bill No. 1027 reforming the provisions relating to the criminalisation of sexual assault (11 articles) was tabled in public session of the National Council on 25 November 2020.

The planned reform is inspired by **international standards and work** in this area [1], and in particular:

- Convention on the Elimination of All Forms of Discrimination against Women, and the work of the (Monitoring) Committee on the Elimination of Discrimination against Women (CEDAW) [2];
- Council of Europe Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence, and the work of the Group of Experts on Combating Violence against Women and Domestic Violence (GREVIO) [3].

Objectives of Bill No. 1027:

> **Redefine the constituent elements of the offences and the penalties** and “give full effectiveness and *raison d’être* to the repression of sexual offences” [4].

The planned recasting of the provisions of the Criminal Code is based on the observation “*that certain behaviours constituting violence of a sexual nature are not currently subject to fully adequate incriminations, which need to be both modernised and perfected.*” [5]

> **Redefine rape and other sexual assaults** with reference to the **criterion of lack of consent** to the sexual act given of one’s own free will.

“*In this approach, the use of violence, coercion, threat or surprise would make it possible to characterise the absence of consent as evidence, although this list is not exhaustive – and therefore not exhaustive.*” [6]

[1] Explanatory memorandum to Bill No. 1027, 2020-16, 9 November 2020, p. 4.

[2] CEDAW, General Recommendation No. 35 on gender-based violence against women, up-dating General Recommendation No. 19, 2017, CEDAW/GC/35, § 29.

[3] Article 36 ‘Sexual violence including rape’ of the Istanbul Convention.

[4] Explanatory memorandum to Bill No. 1027, op. cit. at p. 3.

[5] Ibidem.

[6] Explanatory memorandum to Bill No. 1027, op. cit. at p. 5.